

Neifeld Docket No: CAT/34-SCRO-US

Application/Patent No: 08/873,9747,966,222 USPTO CONFIRMATION NO: 2461

File/Issue Date: 6/12/1997/6/21/2011, CPA FILED AUGUST 17, 1999

Inventor/Title: SCROGGIE/SYSTEM AND METHOD FOR DISTRIBUTING INFORMATION
THROUGH COOPERATIVE COMMUNICATION NETWORK SITES

Examiner/ArtUnit: ROBINSON/3628

ENTITY STATUS: Large

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT

I. Statement of the Precise Relief Requested

The patentee requests that the Director change the notice of patent term adjustment under 35 USC 154 from 2288 days to 3142 days.

II. Material Facts in Support of the Petition

1. The Director determined a 2288 day patent term extension, as noted on the patent issued June 21, 2011.

USPTO DELAY

35 USC 154(b)(1)(A)

2. This section is not applicable.

35 USC 154(b)(1)(B)

3. On March 2, 2001, the applicant filed the most recent continuing prosecution application in this application (hereinafter “effective filing date”).

4. March 2, 2004 is three years from the effective filing date.

5. On June 21, 2011, this application issued into a patent.

6. The first period of USPTO delay spans March 2, 2004 until June 21, 2011. The number of days in this period is 2667.

35 USC 154(b)(1)(C)

7. On July 10, 2001, the applicant filed a notice of appeal.
8. On July 30, 2004, the BPAI issued a decision, remanding the application “to the examiner for action consistent with the reasoning herein with regard to the rejection of claims 54, 63-69, 73-79 and 83-89 under 35 U.S.C. 103.”
9. The second period of USPTO delay spans July 10, 2001 until July 30, 2004. The number of days in this period is 1116.

10. On December 12, 2005, the applicant filed a notice of appeal.
11. On January 31, 2008, the BPAI mailed a decision reversing the rejections of all of the pending claims.
12. The third period of USPTO delay spans December 12, 2005 until January 31, 2008. The number of days in this period is 781.
13. On August 22, 2008, the applicant filed a notice of appeal.
14. On January 20, 2011, the BPAI mailed a decision reversing the rejections claims 50-89.
15. The fourth period of USPTO delay spans August 22, 2008 until January 20, 2011. The number of days in this period is 882.
16. The total USPTO delay under 35 USC 154(b)(1)(C) is $1116 + 781 + 882 = 2779$.

OVERLAP AMONG 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C)

17. The first period of overlap spans March 2, 2004 until July 30, 2004. There are 150 days of overlap between the first period of USPTO delay and the second period of USPTO delay noted above.
18. The second period of overlap spans December 12, 2005 until January 31, 2008. There are 781 days of overlap between the first period of USPTO delay and the third period of USPTO delay noted above.

19. The third period of overlap spans August 22, 2008 until January 20, 2011. There are 882 days of overlap between the first period of USPTO delay and the fourth period of USPTO delay noted above.

TOTAL USPTO DELAY

20. The sum of the periods of USPTO delay are $2667 + 1116 + 781 + 882 = 5446$.
21. The sum of the periods of overlap are $150 + 781 + 882 = 1813$.
22. The total number of days of USPTO delay is $5446 - 1813 = 3633$.

APPLICANT DELAY

23. On July 10, 2001, the applicant filed a notice of appeal.
24. On September 13, 2002, the applicant filed an information disclosure statement.
25. The first period of applicant delay spans July 10, 2001 through September 13, 2002. The number of days in this period is 430.
26. On July 12, 2005, the USPTO mailed a non-final rejection.
27. On December 12, 2005, the applicant filed a notice of appeal.
28. The second period of applicant delay spans October 12, 2005 through December 12, 2005. The number of days in this period is 61.
29. The total applicant delay is $430 + 61 = 491$ days.

OTHER DELAY

30. There are no other periods of applicant delay or of USPTO delay besides the ones specified above.
31. Exhibit 1 attached hereto is an image of the Transaction History tab of PAIR for this application, showing the dates noted herein above.

III. Reasons Why the Relief Requested Should be Granted

The term extension applicable under the 35 USC 154 is calculated as follows:

A. 35 USC 154(b)(1)(A) - GUARANTEE OF PROMPT PATENT AND TRADEMARK

OFFICE RESPONSES

This section is not applicable.

B. 35 USC 154(b)(1)(B) - GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY

35 USC 154(b)(1)(B)(i) provides that the term of the patent shall be extended 1 day for each day in excess of three years from the application filing date that the PTO fails to issue an original patent, not including any time consumed by continued examination of the application requested by the applicant under section 132(b). As noted in facts 3-6 above, the number of days of 35 USC 154(b)(1)(B)(i) USPTO delay is 2667 days.

C. 35 USC 154(b)(1)(C) - GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS

35 USC 154(b)(1)(C)(iii) provides that the term of the patent shall be extended 1 day for each day of the appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability.

As noted in facts 7-16 above, the number of days of 35 USC 154(b)(1)(C)(iii) USPTO delay is 2779 days.

D. OVERLAP AMONG 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C)

As noted in facts 17-19 and 21 above, the number of days of overlap among 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C) is 1813 days.

E. APPLICANT DELAY

35 USC 154(b)(2)(C)(i) provides that the period of adjustment of the term of a patent shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

As noted in facts 23-29 above, the total applicant delay is 491 days.

IV. Conclusion

The net patent term adjustment is $2667 + 2779 - 1813 - 491 = 3142$ days.

V. Fee under 37 CFR 1.18(e)

An EFS credit card authorization in the amount of \$200 is submitted herewith to cover the fee for filing an application for the patent term adjustment.

Respectfully submitted,

/BruceMargulies/

Date 7/3/2011

BRUCE MARGULIES

Registration No: 64,175

Attorney of Record

BTM

Printed: July 3, 2011 (10:41pm)

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Exhibit 1



United States Patent and Trademark Office

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Request No./Case	Application Date	Transaction History	Image/Video	Patent Team	Comments	Peak	Published Document	Address & Name	Assignments	Priority Information
Transaction History										
Date Transaction Description										
06-21-2011 Recalculation of Patent Grant Mailed										
06-02-2011 Email Notification										
06-01-2011 Issue Notification Mailed										
06-21-2011 Patent Issue Date Used in PTA Calculation										
05-26-2011 Dispatch to FDC										
05-20-2011 Application Is Considered Ready for Issue										
05-14-2011 Issue Fee Payment Verified										
05-14-2011 Issue Fee Payment Received										
05-16-2000 Reverse Issue Fee										
05-13-2011 Electronic Review										
05-13-2011 Email Notification										
05-13-2011 Mail Notice of Allowance										
05-10-2011 Document Verification										
05-10-2011 Notice of Allowance Date Verification Completed										
05-10-2011 Case Docketed to Examiner in GAO										
05-02-2011 Amendment/Argument after BPAI Decision										
04-29-2011 Email Notification										
04-29-2011 Mail Miscellaneous Communication to Applicant										
04-25-2011 Miscellaneous Communication to Applicant - No Action Count										
01-24-2011 Electronic Review										
01-20-2011 Email Notification										
01-20-2011 Mail BPAI Decision on Appeal - Affirmed in Part										
01-18-2011 BPAI Decision - Examiner Affirmed in Part										
11-23-2010 Miscellaneous Incoming Letter										
10-06-2009 Email Notification										
10-06-2009 Docketing Notice Mailed to Appellant										
10-02-2009 Assignment of Appeal Number										
09-13-2009 Email Notification										
09-23-2009 Mail Reply Brief Filed by Examiner										
09-21-2009 Appeal Awaiting BPAI Docketing										
09-14-2009 Reply Brief Noted by Examiner										
09-10-2009 Date Forwarded to Examiner										
08-14-2009 Reply Brief Filed										
07-13-2009 Appeal Ready for BPAI Docketing										
07-09-2009 Email Notification										
07-08-2009 Mail Miscellaneous Communication to Applicant										
07-06-2009 Miscellaneous Communication to Applicant - No Action Count										
06-24-2009 Email Notification										
06-24-2009 Mail Reply Brief Noted by Examiner										
06-19-2009 Return of Undocketed appeal to the TC										
06-19-2009 Exam. Ans. Review Complete										
06-19-2009 Reply Brief Noted by Examiner										
06-16-2009 Date Forwarded to Examiner										
06-08-2009 Reply Brief Filed										
06-01-2009 Electronic Review										
05-29-2009 Email Notification										
05-29-2009 Mail Examiner's Answer										
05-26-2009 Examiner's Answer to Appeal Brief										
03-18-2009 Date Forwarded to Examiner										
09-05-2008 Appeal Brief Filed										
09-05-2008 Email Notification										
09-05-2008 Notice -- Defective Appeal Brief										
09-02-2008 Appeal Brief Review Complete										
09-02-2008 Date Forwarded to Examiner										
08-22-2008 Defective / Incomplete Appeal Brief Filed										
08-22-2008 Appeal Brief Filed										
08-22-2008 Notice of Appeal Filed										
04-11-2005 Information Disclosure Statement considered										
04-11-2005 Information Disclosure Statement (IDS) Filed										

09-13-2000 Information Disclosure Statement Considered
09-13-2000 Information Disclosure Statement (IDS) Filed
05-20-2008 Electronic Review
05-23-2008 Email Notification
05-23-2008 Mail Non-Final Rejection
05-21-2008 Non-Final Rejection
02-01-2008 Electronic Review
01-31-2008 Email Notification
01-31-2008 Mail BPAI Decision on Appeal - Reversed
01-29-2008 BPAI Decision - Examiner Reversed
10-05-2006 Case Docketed to Examiner in GAI
06-05-2006 Docketing Notice Mailed to Applicant
06-05-2006 Assignment of Appeal Number
05-17-2006 Appeal Awaiting BPAI Docketing
05-03-2006 Mail Reply Brief Noted by Examiner
04-29-2005 Reply Brief Noted by Examiner
04-03-2005 Date Forwarded to Examiner
03-17-2006 Reply Brief Filed
03-13-2006 Mail Examiner's Answer
03-06-2006 Examiner's Answer to Appeal Brief
12-20-2005 Date Forwarded to Examiner
12-12-2005 Appeal Brief Filed
12-12-2005 Notice of Appeal Filed
12-12-2005 Request for Extension of Time - Granted
10-06-2005 IFW TSS Processing by Tech Center Complete
05-09-2005 Miscellaneous Incoming Letter
07-12-2005 Mail Non-Final Rejection
06-24-2005 Non-Final Rejection
04-05-2005 Case Docketed to Examiner in GAI
03-09-2005 Court Processing Terminated
03-09-2005 Decision by CAFC - Dismissed
11-23-2004 Appeal to Court of Appeals
09-30-2004 Mail BPAI Decision on Reconsideration - Denied
09-30-2004 Date on Reconsideration - Denied
08-06-2004 Request for Reconsideration of Appeal Dec
07-20-2004 Mail BPAI Decision on Appeal - Affirmed
07-29-2004 BPAI Decision - Examiner Affirmed
07-29-2004 Panel Remand to the Examiner by BPAI
04-23-2004 Docketing Notice Mailed to Applicant
04-23-2004 Assignment of Appeal Number
04-05-2004 Appeal Awaiting BPAI Docketing
10-01-2003 Mail Miscellaneous Communication to Applicant
09-30-2003 Miscellaneous Communication to Applicant - No Action Count
08-27-2003 Miscellaneous Incoming Letter
05-19-2003 Mail Reply Brief Noted by Examiner
05-18-2003 Reply Brief Noted by Examiner
05-01-2003 Date Forwarded to Examiner
04-22-2003 Reply Brief Filed
04-09-2003 IFP Scan & PACR Auto Security Review
03-11-2003 Mail Examiner's Answer
03-10-2003 Examiner's Answer to Appeal Brief
03-10-2003 Date Forwarded to Examiner
12-23-2002 Supplemental Appeal Brief
12-23-2002 Substitution Specification Filed
12-23-2002 Oath or Declaration Filed (Including Supplemental)
01-04-2003 Date Forwarded to Examiner
12-23-2002 Supplemental Appeal Brief
01-04-2003 Date Forwarded to Examiner
12-23-2002 Response after Non-Final Action
09-23-2002 Mail Non-Final Rejection
09-20-2002 Non-Final Rejection
09-19-2002 Change in Power of Attorney (May Include Associate POA)
09-18-2002 Correspondence Address Change
09-13-2002 Information Disclosure Statement (IDS) Filed
09-20-2002 Date Forwarded to Examiner
07-10-2001 Appeal Brief Filed
07-10-2001 Notice of Appeal Filed
04-23-2002 Case Docketed to Examiner in GAI
06-12-2000 WorkFlow - File Sent to Contractor
06-19-2001 Mail Non-Final Rejection
06-15-2001 Non-Final Rejection
04-11-2001 Amendment/Argument after Notice of Appeal
04-11-2001 Supplemental Papers - Oath or Declaration

04-18-2001 Date Forwarded to Examiner
04-11-2001 Supplemental Appeal Brief
04-06-2001 Date Forwarded to Examiner
04-06-2001 Date Forwarded to Examiner
03-02-2001 Appeal Brief Filed
03-02-2001 Notice of Appeal Filed
03-02-2001 Preliminary Amendment
04-06-2001 Date Forwarded to Examiner
03-02-2001 Continuing Prosecution Application - Continuation (ACPA)
03-02-2001 Mail Express Abandonment (During Examination)
03-02-2001 Express Abandonment (during Examination)
03-02-2001 Workflow - Request for CPA - Finish
03-09-2001 Mail Non-Final Rejection
03-08-2001 Non-Final Rejection
03-08-2001 Case Docketed to Examiner in GAI
03-08-2001 Date Forwarded to Examiner
03-08-2001 Withdrawal of Notice of Allowance
03-02-2001 Workflow - Request for CPA - Begin
03-08-2001 Date Forwarded to Examiner
03-08-2001 Withdrawal of Notice of Allowance
02-13-2001 Mail-Petition Decision - Granted
02-13-2001 Workflow - Petition - Finish
02-13-2001 Petition Entered
05-16-2000 Issue Fee Payment Verified
05-16-2000 Workflow - Drawings Finished
05-16-2000 Workflow - Drawings Matched with File at Contractor
05-16-2000 Workflow - Drawings Received at Contractor
05-16-2000 Workflow - Drawings Sent to Contractor
07-17-2000 Workflow - Complete Wf Records for Drawings
04-21-2000 Mail Notice of Allowance
04-21-2000 Notice of Allowance Data Verification Completed
02-18-2000 Preliminary Amendment
02-24-2000 Date Forwarded to Examiner
02-16-2000 Continuing Prosecution Application - Continuation (ACPA)
02-16-2000 Mail Express Abandonment (During Examination)
02-16-2000 Express Abandonment (during Examination)
01-11-2000 Power to Make Copies and/or Inspect
12-14-1999 Information Disclosure Statement (IDS) Filed
12-14-1999 Information Disclosure Statement (IDS) Filed
11-16-1999 Mail Non-Final Rejection
11-15-1999 Non-Final Rejection
09-28-1999 Preliminary Amendment
09-22-1999 Change in Power of Attorney (May Include Associate POA)
09-22-1999 Change in Power of Attorney (May Include Associate POA)
09-13-1999 Date Forwarded to Examiner
08-17-1999 Continuing Prosecution Application - Continuation (ACPA)
08-17-1999 Mail Express Abandonment (During Examination)
08-17-1999 Express Abandonment (during Examination)
09-04-1999 Communication - Re: Power of Attorney (PTOL-308)
08-21-1999 Communication - Re: Power of Attorney (PTOL-308)
06-10-1999 Mail Final Rejection (PTOL - 326)
06-29-1999 Final Rejection
06-29-1999 Withdraw Publication/Fire-Exam Abandon
05-05-1999 Information Disclosure Statement (IDS) Filed
05-05-1999 Information Disclosure Statement (IDS) Filed
06-18-1999 Information Disclosure Statement (IDS) Filed
06-18-1999 Information Disclosure Statement (IDS) Filed
06-03-1999 Correspondence Address Change
05-29-1999 Mail Notice of Rescinded Abandonment
05-29-1999 Notice of Rescinded Abandonment in TCS
04-16-1999 Petition Entered
04-12-1999 Mail Abandonment for Failure to Respond to Office Action
04-12-1999 Aband. for Failure to Respond to O. A.
04-09-1999 Change in Power of Attorney (May Include Associate POA)
02-16-1999 Information Disclosure Statement (IDS) Filed
02-16-1999 Information Disclosure Statement (IDS) Filed
09-02-1998 Mail Non-Final Rejection
08-31-1998 Non-Final Rejection
04-10-1998 Case Docketed to Examiner in GAI
02-26-1998 Application Dispatched from DICE
02-24-1998 Application Is Now Complete
11-03-1997 Notice Mailed--Application Incomplete--Filing Date Assigned
09-17-1997 IFW Scan & PACR Auto Security Review

07-22-1997 Initial Exam Team m

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